

United States Senate
WASHINGTON, DC 20510

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August 1, 2016

Chairman Tom Wheeler
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554


Dear Chairman Wheeler:

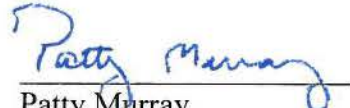
Thank you for your continuing efforts to improve both wireline and wireless broadband access in rural America and to promote competitive broadband markets. Today, we write to emphasize the importance of ensuring that the final rule in the Commission's Further Notice of Proposed Rulemaking (FNPRM) on business data services is based on accurate industry data and promotes strong continued investment in broadband infrastructure.

We appreciate the Commission's goal with the FNPRM to incentivize telecommunications providers to build and invest in networks while enhancing competition among the various providers of business data services. As you work toward a final rule, it is especially important for rural states like ours that the Commission use all the available data, including the data submitted earlier this year by the major cable operators, to both measure competitive markets accurately and ensure that the regulations for noncompetitive markets are based on the real cost to provide service. Rural communities depend on robust investments in business data services to connect small businesses and anchor institutions, support wireless data service, and enable economic development. Without these investments, our rural constituents will face significant challenges in accessing the 21st century global economy.

We strongly believe that good decisions can be made with good information. This is an important rule that will serve the public's interest if it can be completed using the most accurate data. Thank you for your consideration.

Sincerely,


Jon Tester
United States Senator

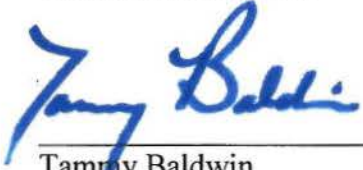

Patty Murray
United States Senator


Maria Cantwell
United States Senator


Robert P. Casey Jr.
United States Senator



Amy Klobuchar
United States Senator



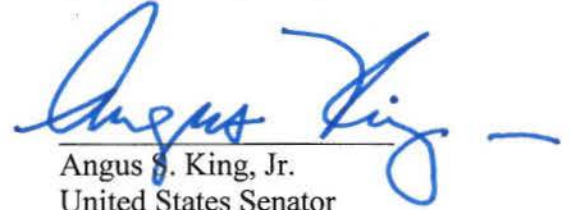
Tammy Baldwin
United States Senator



Heidi Heitkamp
United States Senator



Michael F. Bennet
United States Senator



Angus S. King, Jr.
United States Senator



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 14, 2016

The Honorable Tammy Baldwin
United States Senate
717 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Baldwin:

Thank you for your letter regarding the Commissions' business data service (BDS) rulemaking proceeding.

Business data services, historically known as special access, are critically important in our connected economy and society, including, as you note, in rural communities. Offices, retailers, banks, manufacturers, schools, hospitals, and universities use these dedicated network connections to move large amounts of data. Consumers use them indirectly every time they withdraw cash from an ATM or swipe their credit card at a retail store. And mobile networks depend heavily on the use of BDS for the backhaul of mobile traffic, which will only grow as wireless carriers expand their networks and move into 5G wireless, which promises tremendous opportunities for economic growth, job creation, and U.S. competitiveness.

The BDS Further Notice of Proposed Rulemaking (FNPRM) proposes to replace the existing, fragmented regulatory BDS structure with a new framework. The proposed new regulatory framework is built on the principles of promoting competition, maintaining technological neutrality, removing barriers that may inhibit the technology transitions, and is focused on the realities of not only today's marketplace, but tomorrow's as well.

I share your interest in ensuring that the Commission's final rules in this proceeding are based on accurate industry data, including data submitted by major cable operators. In the BDS FNPRM, the Commission emphasized that it sees cable entry into the marketplace as a very positive development and an important factor to be considered in any final rules. The cable companies were among the BDS providers required to submit their 2013 BDS data to the Commission. However, as the Commission noted in the BDS FNPRM, not all cable operators initially provided a full data set. Commission staff has since worked with these cable providers to supplement their data submissions with the missing information and made the data available to commenters on June 6, 2016.

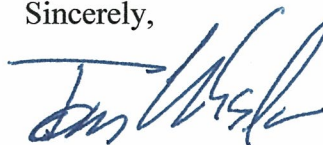
This supplemented cable data has also been included in our analyses. The Commission took the extra step in this proceeding of retaining an outside expert, Professor Marc Rysman of Boston University, to assist the Commission with its analysis of competition in the BDS marketplace. Dr. Rysman prepared a white paper examining the nature of competition and

marketplace practices in the supply of business data services, which was included as an attachment to the BDS FNPRM. Consistent with past Commission practice and Office of Management and Budget's Peer Review Guidelines, Commission staff subjected Dr. Rysman's paper to a peer review process.

Upon receiving the supplemented cable data, Commission staff asked Dr. Rysman to consider any impact of this data on his analysis. Dr. Rysman found the supplemented data did not materially affect the conclusions previously reached. In addition, Commission staff conducted econometric regressions, similar to those in Dr. Rysman's paper, using the supplemented cable data to test whether cable competition may have additional or complementary effects on the prices charged by incumbents. Staff found that cable competition, using the supplemented cable data, had no appreciable effect on prices charged by incumbents and no effect on the previously estimated effects of facilities-based competition. Both Dr. Rysman's revised paper and the Commission staff's analysis were forwarded to peer reviewers for comment and made publicly available, as were the peer reviewers' further responses. Consequently, I can assure you that the record upon which we will base any final decisions fully reflects this supplemented cable data.

I appreciate your interest in this matter. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review. Please let me know if I can be of any further assistance.

Sincerely,



Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 14, 2016

The Honorable Michael Bennet
United States Senate
261 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Bennet:

Thank you for your letter regarding the Commissions' business data service (BDS) rulemaking proceeding.

Business data services, historically known as special access, are critically important in our connected economy and society, including, as you note, in rural communities. Offices, retailers, banks, manufacturers, schools, hospitals, and universities use these dedicated network connections to move large amounts of data. Consumers use them indirectly every time they withdraw cash from an ATM or swipe their credit card at a retail store. And mobile networks depend heavily on the use of BDS for the backhaul of mobile traffic, which will only grow as wireless carriers expand their networks and move into 5G wireless, which promises tremendous opportunities for economic growth, job creation, and U.S. competitiveness.

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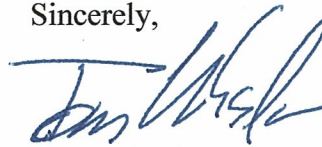
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 14, 2016

The Honorable Maria Cantwell
United States Senate
511 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Cantwell:

Thank you for your letter regarding the Commissions' business data service (BDS) rulemaking proceeding.

Business data services, historically known as special access, are critically important in our connected economy and society, including, as you note, in rural communities. Offices, retailers, banks, manufacturers, schools, hospitals, and universities use these dedicated network connections to move large amounts of data. Consumers use them indirectly every time they withdraw cash from an ATM or swipe their credit card at a retail store. And mobile networks depend heavily on the use of BDS for the backhaul of mobile traffic, which will only grow as wireless carriers expand their networks and move into 5G wireless, which promises tremendous opportunities for economic growth, job creation, and U.S. competitiveness.

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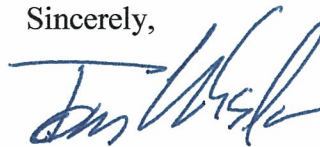
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 14, 2016

The Honorable Bob Casey
United States Senate
393 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Casey:

Thank you for your letter regarding the Commissions' business data service (BDS) rulemaking proceeding.

Business data services, historically known as special access, are critically important in our connected economy and society, including, as you note, in rural communities. Offices, retailers, banks, manufacturers, schools, hospitals, and universities use these dedicated network connections to move large amounts of data. Consumers use them indirectly every time they withdraw cash from an ATM or swipe their credit card at a retail store. And mobile networks depend heavily on the use of BDS for the backhaul of mobile traffic, which will only grow as wireless carriers expand their networks and move into 5G wireless, which promises tremendous opportunities for economic growth, job creation, and U.S. competitiveness.

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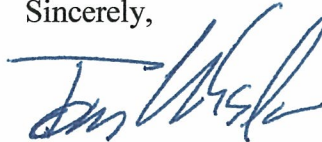
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Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

September 14, 2016

The Honorable Heidi Heitkamp
United States Senate
110 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Heitkamp:

Thank you for your letter regarding the Commissions' business data service (BDS) rulemaking proceeding.

Business data services, historically known as special access, are critically important in our connected economy and society, including, as you note, in rural communities. Offices, retailers, banks, manufacturers, schools, hospitals, and universities use these dedicated network connections to move large amounts of data. Consumers use them indirectly every time they withdraw cash from an ATM or swipe their credit card at a retail store. And mobile networks depend heavily on the use of BDS for the backhaul of mobile traffic, which will only grow as wireless carriers expand their networks and move into 5G wireless, which promises tremendous opportunities for economic growth, job creation, and U.S. competitiveness.

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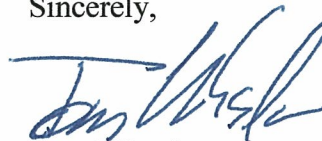
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Tom Wheeler



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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 14, 2016

The Honorable Angus King
United States Senate
133 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator King:

Thank you for your letter regarding the Commissions' business data service (BDS) rulemaking proceeding.

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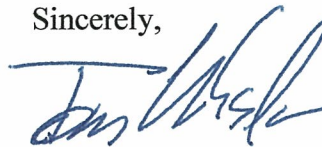
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OFFICE OF
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 14, 2016

The Honorable Amy Klobuchar
United States Senate
302 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Klobuchar:

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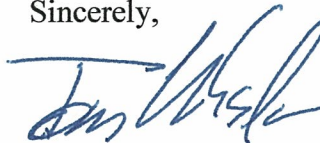
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 14, 2016

The Honorable Patty Murray
United States Senate
154 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Murray:

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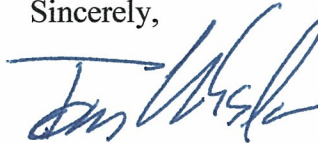
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 14, 2016

The Honorable Jon Tester
United States Senate
311 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Tester:

Thank you for your letter regarding the Commissions' business data service (BDS) rulemaking proceeding.

Business data services, historically known as special access, are critically important in our connected economy and society, including, as you note, in rural communities. Offices, retailers, banks, manufacturers, schools, hospitals, and universities use these dedicated network connections to move large amounts of data. Consumers use them indirectly every time they withdraw cash from an ATM or swipe their credit card at a retail store. And mobile networks depend heavily on the use of BDS for the backhaul of mobile traffic, which will only grow as wireless carriers expand their networks and move into 5G wireless, which promises tremendous opportunities for economic growth, job creation, and U.S. competitiveness.

The BDS Further Notice of Proposed Rulemaking (FNPRM) proposes to replace the existing, fragmented regulatory BDS structure with a new framework. The proposed new regulatory framework is built on the principles of promoting competition, maintaining technological neutrality, removing barriers that may inhibit the technology transitions, and is focused on the realities of not only today's marketplace, but tomorrow's as well.

I share your interest in ensuring that the Commission's final rules in this proceeding are based on accurate industry data, including data submitted by major cable operators. In the BDS FNPRM, the Commission emphasized that it sees cable entry into the marketplace as a very positive development and an important factor to be considered in any final rules. The cable companies were among the BDS providers required to submit their 2013 BDS data to the Commission. However, as the Commission noted in the BDS FNPRM, not all cable operators initially provided a full data set. Commission staff has since worked with these cable providers to supplement their data submissions with the missing information and made the data available to commenters on June 6, 2016.

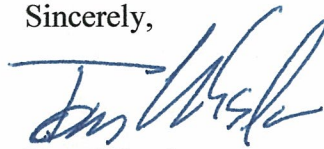
This supplemented cable data has also been included in our analyses. The Commission took the extra step in this proceeding of retaining an outside expert, Professor Marc Rysman of Boston University, to assist the Commission with its analysis of competition in the BDS marketplace. Dr. Rysman prepared a white paper examining the nature of competition and

marketplace practices in the supply of business data services, which was included as an attachment to the BDS FNPRM. Consistent with past Commission practice and Office of Management and Budget's Peer Review Guidelines, Commission staff subjected Dr. Rysman's paper to a peer review process.

Upon receiving the supplemented cable data, Commission staff asked Dr. Rysman to consider any impact of this data on his analysis. Dr. Rysman found the supplemented data did not materially affect the conclusions previously reached. In addition, Commission staff conducted econometric regressions, similar to those in Dr. Rysman's paper, using the supplemented cable data to test whether cable competition may have additional or complementary effects on the prices charged by incumbents. Staff found that cable competition, using the supplemented cable data, had no appreciable effect on prices charged by incumbents and no effect on the previously estimated effects of facilities-based competition. Both Dr. Rysman's revised paper and the Commission staff's analysis were forwarded to peer reviewers for comment and made publicly available, as were the peer reviewers' further responses. Consequently, I can assure you that the record upon which we will base any final decisions fully reflects this supplemented cable data.

I appreciate your interest in this matter. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized, flowing script.

Tom Wheeler